

*(To be filled out in the EDPS' office)*  
**REGISTER NUMBER: 1308**

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**NOTIFICATION FOR PRIOR CHECKING**

**DATE OF SUBMISSION: 01/06/2015**

**CASE NUMBER: 2015-0467**

**INSTITUTION: EU-OSHA**

**LEGAL BASIS: ARTICLE 27-5 OF THE REGULATION CE N° 45/2001<sup>(1)</sup>**

**INFORMATION TO BE GIVEN<sup>2</sup>**

1/ NAME AND ADDRESS OF THE CONTROLLER

EU-OSHA  
Santiago de Compostela 12  
48009 Bilbao (Spain)

2/ ORGANISATIONAL PARTS OF THE INSTITUTION OR BODY ENTRUSTED WITH THE PROCESSING OF PERSONAL DATA

HR Section  
Confidential counsellors

3/ NAME OF THE PROCESSING

Protection of personal data in relation to the informal procedure for psychological and sexual harassment.

4/ PURPOSE OR PURPOSES OF THE PROCESSING

Personal information is collected and processed for the purpose of conducting the informal procedure under EU-OSHA policy, aimed at finding an amicable solution through informal discussions between the alleged victim and the other party with, if requested, the mediation of a confidential counsellor.

When an informal procedure is launched, any personal data will be processed solely for the purpose of conducting this procedure. The collection of any data must be adequate, relevant and not excessive in relation with the purposes of the collection

<sup>1</sup> OJ L 8, 12.01.2001.

<sup>2</sup> **Please attach all necessary backup documents**

#### 5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

Hard and soft data.

#### 6/ DESCRIPTION OF THE DATA OR CATEGORIES OF DATA

*(including, if applicable, special categories of data (Article 10) and/or origin of data)*

“Hard data” (i.e., administrative data):

- Identification data of the alleged victim, alleged harasser (only upon the consent of the alleged victim) and possible witnesses: last name, first name, gender, unit and function (incl. hierarchical link);
- Categorization of the problem/conflict/situation;
- Kind of intervention/action foreseen or taken;
- History of reassignments.

“Soft data” (declarations and allegations made), which may include sensitive data in the meaning of Article 10.1 of Regulation (EC) N. 45/2001:

- Notes taken by the confidential counsellors;
- Declarations from witnesses;
- Any kind of supporting documentation provided by the alleged victim.

#### 7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

- The data subject’s rights can be restricted in the cases foreseen by Article 20 (1) (c) of Regulation (EC) N. 45/2001 – when a restriction is necessary for the prevention, investigation, detection and prosecution of criminal offences or for the protection of the rights and freedom of others;
- The data subject whose rights are restricted shall be informed of the reasons for such restrictions and of his/her right to recourse to the EDPS, as foreseen by Article 20.3, and obtain indirect access, as provided by Article 20.4 of Regulation (EC) N. 45/2001. Both provisions can be deferred in order to protect the alleged victim, as foreseen by Article 20.5 of Regulation (EC) N.45/2001.

#### 8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS

*(Rights of access, to rectify, to block, to erase, to object)*

“Hard data”:

- All persons whose personal data are processed in the course of an informal procedure have the right to access, rectify, block or erase their identification data in the cases foreseen by Articles 13,14,15 16 of Regulation (EC) N. 45/2001 and to object about their processing in the cases foreseen by Article 18;
- To exercise these rights, they should contact the HR section or the confidential counsellors in charge of the case in writing.
- Access will be granted under the following circumstances:
  - All data subjects will be able to access the documents they have themselves transmitted;
  - Alleged victims or alleged harassers may have access to the file opening form for the case relating to them. As far as alleged harassers are concerned, this access will only be granted if they have been informed by the confidential counsellor of the existence of an informal procedure, after the alleged victim has given his/her consent;
  - Alleged victims also have access to the closing form concerning their case;
  - Access to any other document will only be granted if this document does not contain personal data relating to other persons or confidential statements, or if there is no risk that its transmission may

impact negatively on one of the parties involved in the case, on the smooth running of the procedures or on future relations between the parties.

- All data subject have the right to rectify one's hard data.

“Soft data”:

- All persons whose personal data are processed in the course of an informal procedure have access to the documents that they have themselves transmitted and can rectify their declarations and allegations anytime. They can also request any new opinion to be added to the file as per Article 14 of Regulation (EC) N. 45/2001.
- The HR Section and the confidential counsellors commits themselves to deal with requests for access within the boundaries of his/her duty of care as well as to carry out the necessary verifications of the data and, if need be, rectify them. Upon request of the alleged victim, the documentation shall be destroyed at any time.

#### 9/ AUTOMATED / MANUAL PROCESSING OPERATION

The processing operation is done manually and electronically.

#### 10/ STORAGE MEDIA OF DATA

The file opening and closing forms are kept in safely closed cupboards in the HR Section central archive.

#### 11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

- The lawfulness of the processing is based on Article 5(a), (d) and (e) of Regulation (EC) N° 45/2001 of the European Parliament and the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (hereinafter, Regulation (EC) N. 45/2001).

#### 12/ THE RECIPIENTS OR CATEGORIES OF RECIPIENT TO WHOM THE DATA MIGHT BE DISCLOSED

- HR Section (“hard data”);
- Director (“hard data” in the event of recurrent cases);
- Civil Service Court, the European Ombudsman and the EDPS in the cases foreseen by Article 7 (2);
- Data Protection Officer where applicable;
- External experts (psychologists, emergency services) where applicable;
- Data transmission within the agents involved in the informal procedure is restricted to the information necessary for the completion of the respective task. Only adequate, relevant and not excessive information is transmitted, where applicable. The recipients process the personal data only for the purpose for which they were transmitted.

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

- The documentation related to the informal procedures (opening and closing form) is stored in the HR Section central archive (password protected) for not more than 5 years unless there is a judicial or administrative procedure requiring that this documentation is consulted, in which case it can be stored for a further 5 year period.
- Once a case is closed and within a maximum of three months after the closure of a case, the confidential counsellors shall destroy all personal notes. Confidential counsellors will not retain any document provided to him/her by the alleged victim. They will be returned to the alleged victim.
- If on expiry of the time limit for the confidential counsellor's involvement, the alleged victim still does not consent to the alleged harasser being informed of the existence of an informal procedure against him/her, any data relating to that person will be erased from the file opening form and no element allowing the case to be traced back and the person to be identified will be kept by the HR Section in its archives;
- The documentation may be destroyed at any time at the alleged victim's request.

13 A/ TIME LIMIT TO BLOCK/ERASE ON JUSTIFIED LEGITIMATE REQUEST FROM THE DATA SUBJECTS  
(Please, specify the time limits for every category, if applicable)

14/ HISTORICAL, STATISTICAL OR SCIENTIFIC PURPOSES

(If you store data for longer periods than mentioned above, please specify, if applicable, why the data must be kept under a form which permits identification)

N/A

15/ PROPOSED TRANSFERS OF DATA TO THIRD COUNTRIES OR INTERNATIONAL ORGANISATIONS

N/A

16/ THE PROCESSING OPERATION PRESENTS SPECIFIC RISK WHICH JUSTIFIES PRIOR CHECKING (Please describe)

AS FORESEEN IN:

Article 27.2.(a)

(Processing of data relating to health and to suspected offences, offences, criminal convictions or security measures,)

Article 27.2.(b)

(Processing operations intended to evaluate personal aspects relating to the data subject,)

Article 27.2.(c)

(Processing operations allowing linkages not provided for pursuant to national or Community legislation between data processed for different purposes,)

Article 27.2.(d)

*(Processing operations for the purpose of excluding individuals from a right, benefit or contract)*

Other (general concept in Article 27.1)

17/ COMMENTS

Annex 1: Privacy statement on the protection of personal data in relation to the informal procedure on Building and Maintaining a Working Culture based on Dignity and Respect.

Annex 2: Privacy statement on the selection of confidential counsellors.

Annex 3: Draft Governing Board Decision on the EU-OSHA Policy on Building and Maintaining a Working Culture based on Dignity and Respect.

Annex 4: Manual of Procedures for Confidential Counsellors.

PLACE AND DATE: BILBAO, SPAIN, 01/06/2015

DATA PROTECTION OFFICER: MICHAELA SEIFERT

INSTITUTION OR BODY: EU-OSHA